

PETER SULLIVAN, SBN 101428  
[PSullivan@gibsondunn.com](mailto:PSullivan@gibsondunn.com)  
SAMUEL G. LIVERSIDGE, SBN 180578  
[SLiversidge@gibsondunn.com](mailto:SLiversidge@gibsondunn.com)  
CHRISTOPHER CHORBA, SBN 216692  
[CChorba@gibsondunn.com](mailto:CChorba@gibsondunn.com)  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, California 90071-3197  
Telephone: (213) 229-7000  
Facsimile: (213) 229-7520

**\*\*E-Filed 8/13/2009\*\***

Attorneys for Defendant  
HEWLETT-PACKARD COMPANY

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CARL K. RICH, et al.,

Plaintiffs,

v.

HEWLETT-PACKARD COMPANY, et al.,

Defendants.

CASE NO. C 06 03361-JF (HRL)

**JOINT STIPULATION REQUESTING  
FURTHER MODIFICATION OF HEARING  
AND BRIEFING SCHEDULE FOR  
PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION; ~~PROPOSED~~ ORDER  
GRANTING STIPULATION; AND  
DECLARATION OF COUNSEL**

Counsel for Plaintiffs Carl Rich and David Duran ("Plaintiffs") and counsel for Defendant Hewlett-Packard Company ("HP"), in support of their Stipulation Requesting Further Modification of Hearing and Briefing Schedule for Plaintiffs' Motion for Class Certification, state as follows:

1. At the Case Management Conference held on November 30, 2007, the Court set hearing on Plaintiffs' motion for class certification for May 8, 2009. Upon the parties' stipulated request, the Court modified this schedule and continued the hearing on Plaintiffs' motion for class certification to September 19, 2009, and set the following deadlines for briefing on the motion: April 23, 2009, for Plaintiffs' moving papers; July 22, 2009, for Defendant's opposition; and

1 August 26, 2009, for Plaintiffs' reply papers. *See* Order Granting Stipulation Requesting  
2 Modification of Hearing and Briefing Schedule Re: Motion for Class Certification; Declaration of  
3 Counsel (Docket No. 57). Upon further stipulation of the parties, the Court modified this schedule  
4 and continued the hearing on Plaintiffs' motion for class certification to November 20, 2009, and set  
5 the following deadlines for briefing on the motion: June 23, 2009, for Plaintiffs' moving papers;  
6 September 22, 2009, for Defendant's opposition; and October 26, 2009, for Plaintiffs' reply papers.  
7 *See* Order Granting Stipulation Requesting Modification of Hearing and Briefing Schedule Re:  
8 Motion for Class Certification; Declaration of Counsel (Docket No. 60).

9 2. Due to the parties' ongoing discussions and attempt to mediate their differences, they  
10 have negotiated another extension of approximately forty-five days for all dates associated with  
11 Plaintiffs' motion for class certification. The dates to which the parties have agreed, subject to the  
12 Court's approval, are as follows: (a) November 5, 2009, for Hewlett-Packard to file its opposition to  
13 Plaintiffs' motion for class certification and its expert report(s); (b) December 9, 2009, for Plaintiffs  
14 to file their reply in support of their motion for class certification; and (c) January 8, 2010, for the  
15 hearing on Plaintiffs' motion for class certification.

16 3. In addition, the Court previously ordered that, on account of the complexity of the  
17 issues to be decided on class certification, the page limit requirements contained in Civil Local  
18 Rule 7-3(a) be increased to 35 pages for Hewlett-Packard's opposition. *See* Order Granting  
19 Stipulation Requesting Modification of Hearing and Briefing Schedule Re: Motion for Class  
20 Certification (Docket No. 57).

21 4. Pursuant to Civil Local Rule 6-2, a date of an event or deadline already fixed by Court  
22 order may be enlarged or changed if the parties so stipulate; the stipulation is accompanied by a  
23 declaration addressing the reasons for the requested change, previous time modifications, and the  
24 effect that the requested time modification would have on the schedule set for the case; and the  
25 parties obtain an order from the Court approving the requested enlargement of time.

26 5. A declaration of counsel providing the information required by Civil Local Rule 6-2  
27 follows this Stipulation.  
28

1           6.       Therefore, the parties through their counsel respectfully request that the Court enter an  
2 order vacating the current hearing date for Plaintiffs' motion for class certification, and setting the  
3 following new schedule: (a) HP's opposition papers (and expert reports) to be filed and served no  
4 later than November 5, 2009; (b) Plaintiffs' reply papers are to be filed and served no later than  
5 December 9, 2009; and (c) the hearing on Plaintiffs' motion for class certification is set for January 8,  
6 2010, or such alternative date as the Court may select.

7           7.       HP reserves the right to file a motion for summary judgment on the claims of any  
8 individual named plaintiff at any time prior to the last day to file dispositive motions, and to notice  
9 the hearing of such a motion on or before the hearing date set for Plaintiffs' motion for class  
10 certification.

11  
12 **IT IS SO STIPULATED.**

13 DATED: August 12, 2009

COTCHETT, PITRE & MCCARTHY

14  
15 By:                   /s/ Justin T. Berger\*                  

16 Attorneys for Plaintiffs CARL RICH and DAVID  
17 DURAN

18 DATED: August 12, 2009

GIBSON, DUNN & CRUTCHER LLP  
PETER SULLIVAN  
SAMUEL G. LIVERSIDGE  
CHRISTOPHER CHORBA

19  
20  
21 By:                   /s/ Christopher Chorba\*                  

22 Attorneys for Defendant HEWLETT-PACKARD  
23 COMPANY

24 \*I hereby attest that I have on file all holograph  
25 signatures for any signatures indicated by a  
26 "conformed" signature (/s/) within this efiled document.  
27  
28

1                    **DECLARATION OF CHRISTOPHER CHORBA IN SUPPORT OF STIPULATION**

2            1.        I, Christopher Chorba, am an attorney admitted to practice before this Court and all  
3 courts of the State of California. I am an associate attorney in the law firm of Gibson, Dunn &  
4 Crutcher LLP, attorneys of record for Defendant Hewlett-Packard Company ("HP"). I make this  
5 declaration in support of the Joint Stipulation and [Proposed] Order Requesting Further Modification  
6 of Hearing and Briefing Schedule for Plaintiffs' Motion for Class Certification. I have personal  
7 knowledge of the facts stated herein, and, if called as a witness, I could and would testify  
8 competently to those facts.

9            2.        At the Case Management Conference held on November 30, 2007, the Court set  
10 hearing on Plaintiffs' motion for class certification for May 8, 2009. Upon stipulation of the parties  
11 filed January 15, 2009, the Court moved the hearing on Plaintiffs' motion for class certification to  
12 September 19, 2009, and set the following deadlines for briefing on the motion: April 23, 2009, for  
13 Plaintiffs' moving papers; July 22, 2009, for HP's opposition; and August 26, 2009, for Plaintiffs'  
14 reply papers. *See* Order Granting Stipulation Requesting Modification of Hearing and Briefing  
15 Schedule Re: Motion for Class Certification (Docket No. 57). Upon further stipulation of the parties  
16 filed April 23, 2009, the Court moved the hearing on Plaintiffs' motion for class certification to  
17 November 20, 2009, and set the following deadlines for briefing on the motion: June 23, 2009, for  
18 Plaintiffs' moving papers; September 22, 2009, for HP's opposition; and October 26, 2009, for  
19 Plaintiffs' reply papers. *See* Order Granting Stipulation Requesting Further Modification of Hearing  
20 and Briefing Schedule Re: Motion for Class Certification (Docket No. 60).

21            3.        The parties are involved in ongoing discussions and attempt to mediate their  
22 differences, and it is the desire of both parties to continue focusing on these efforts and bring them to  
23 a resolution before briefing Plaintiffs' motion for class certification, which may be ultimately  
24 unnecessary if the parties are able to resolve their dispute. Accordingly, the parties have agreed to an  
25 extension of approximately forty-five days for all dates associated with Plaintiffs' motion for class  
26 certification. The dates to which the parties have agreed, subject to the Court's approval, are as  
27 follows: (a) HP's opposition papers (and expert reports) to be filed and served no later than  
28 November 5, 2009; (b) Plaintiffs' reply papers are to be filed and served no later than December 9,

2009; and (c) the hearing on Plaintiffs' motion for class certification is set for January 8, 2010, or such alternative date as the Court may select.

4. The original complaint was filed on May 22, 2006. There have been several continuances since then, in addition to the extensions referenced in paragraph 2. By stipulation filed in June 2006, HP's deadline for filing a responsive pleading was extended. On August 31, 2006, the Court approved the parties' stipulated request to continue the initial case management conference. On October 10, 2006, the Court approved the parties' stipulated request to further continue the initial case management conference, and to extend deadlines to complete the ADR process and for HP to respond to Plaintiffs' First Amended Complaint. The case management conference was subsequently further continued to March 9, 2007. After dismissal of the First Amended Complaint, with leave to amend, Plaintiffs filed a Second Amended Complaint, and stipulated to an extension of time for HP to respond thereto.

5. As discussed above in paragraph 2, the parties have sought and received two prior extensions to the deadlines for Plaintiffs' motion for class certification.

6. The Court has not set any dates other than that for hearing on Plaintiffs' motion for class certification and the Case Management Conference scheduled for September 18, 2009, at 10:30 a.m. Therefore, granting the time modification requested in the parties' stipulation will not require extensions to any other deadlines.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed at Los Angeles, California, on August 12, 2009.

By: /s/ Christopher Chorba\*

\*I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this efiled document.

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 CARL K. RICH, et al.,

12 Plaintiffs,

13 v.

14 HEWLETT-PACKARD COMPANY, et al.,

15 Defendants.  
16

CASE NO. C 06 03361-JF (HRL)

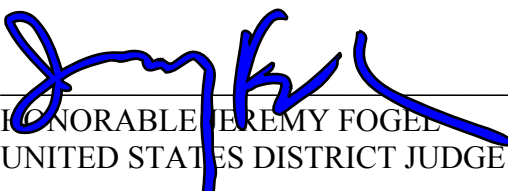
**~~PROPOSED~~ ORDER GRANTING JOINT  
STIPULATION REQUESTING FURTHER  
MODIFICATION OF HEARING AND  
BRIEFING SCHEDULE FOR PLAINTIFFS'  
MOTION FOR CLASS CERTIFICATION**

17 The Court having reviewed the parties' stipulation to further modify the briefing and hearing  
18 schedule for Plaintiffs' motion for class certification and the accompanying declaration of counsel,  
19 and having found good cause shown, IT IS ORDERED as follows:

20 The Court VACATES the current hearing date of November 20, 2009, for Plaintiffs' motion  
21 for class certification. The Court sets the following new schedule with respect to Plaintiffs' motion:  
22 Defendant's opposition papers and expert reports are to be filed and served no later than November 5,  
23 2009; Plaintiffs' reply papers are to be filed and served no later than December 9, 2009; and the  
24 hearing on Plaintiffs' motion for class certification is set for January 8, 2010.

25 **IT IS SO ORDERED.**

26 Date: 8/13/2009

27   
HONORABLE JEREMY FOGEL  
UNITED STATES DISTRICT JUDGE

1 **CERTIFICATE OF SERVICE**

2 I, Christopher Chorba, declare as follows:

3 I am employed in the County of Los Angeles, State of California; I am over the age of  
4 eighteen years and am not a party to this action; my business address is 333 South Grand Avenue,  
5 Los Angeles, CA 90071 in said County and State.

6 I hereby certify that on August 12, 2009, the following documents were electronically  
7 transmitted to the Clerk of the Court using the CM/ECF System:

8 **JOINT STIPULATION REQUESTING FURTHER MODIFICATION OF**  
9 **HEARING AND BRIEFING SCHEDULE FOR PLAINTIFFS' MOTION FOR**  
10 **CLASS CERTIFICATION; [PROPOSED] ORDER GRANTING STIPULATION;**  
**AND DECLARATION OF COUNSEL**

11 I further certify that copies of the foregoing documents were transmitted on August 12, 2009,  
12 via e-mail to each of the persons named on the attached Service List. I caused each such document to  
13 be transmitted by PDF Format, to the parties and e-mail addresses indicated on the attached Service  
14 List.

15 I declare under penalty of perjury that the foregoing is true and correct.

16 DATED: August 12, 2009

GIBSON, DUNN & CRUTCHER LLP

17  
18 By: /s/ Christopher Chorba\*

19 Attorneys for Defendant HEWLETT-PACKARD  
20 COMPANY

21 \*I hereby attest that I have on file all holograph  
22 signatures for any signatures indicated by a  
23 "conformed" signature (/s/) within this efiled document.  
24  
25  
26  
27  
28

## Service List

### Counsel for Plaintiffs

Brian S. Kabateck  
Alfredo Torrijos  
Claudia E. Candelas  
Kabateck Brown Kellner, LLP  
644 South Figueroa Street  
Los Angeles, CA 90017  
Tel: (213) 217-5000  
Fax: (213) 217-5010  
[bsk@kbklawyers.com](mailto:bsk@kbklawyers.com)  
[at@kbklawyers.com](mailto:at@kbklawyers.com)  
[cc@kbklawyers.com](mailto:cc@kbklawyers.com)

Niall P. McCarthy  
Laura E. Schlichtmann  
Justin T. Berger  
Cotchett, Pitre & McCarthy  
San Francisco Airport Office Center  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010  
Tel: (650) 697-6000  
Fax: (650) 692-3606  
[nmccarthy@cpmlegal.com](mailto:nmccarthy@cpmlegal.com)  
[lschlichtmann@cpmlegal.com](mailto:lschlichtmann@cpmlegal.com)  
[jberger@cpmlegal.com](mailto:jberger@cpmlegal.com)

Stephen M. Garcia  
David Medby  
The Garcia Law Firm  
One World Trade Center, Suite 1950  
Long Beach, CA 90831  
Tel: (562) 216-5270  
Fax: (562) 216-5271  
[sgarcia@lawgarcia.com](mailto:sgarcia@lawgarcia.com)  
[dmedby@lawgarcia.com](mailto:dmedby@lawgarcia.com)

Patrick McNicholas  
McNicholas & McNicholas LLP  
10866 Wilshire Blvd., Suite 1400  
Los Angeles, CA 90024  
Tel: (310) 474-1582  
Fax: (310) 475-7871  
[pmc@mcnicholaslaw.com](mailto:pmc@mcnicholaslaw.com)  
[cjs@mcnicholaslaw.com](mailto:cjs@mcnicholaslaw.com)

Bruce L. Simon  
Esther L. Klisura  
Pearson, Simon, Warshaw & Penny LLP  
44 Montgomery Street, Suite 1430  
San Francisco, CA 94104  
Tel: (415) 433-9000  
Fax: (415) 433-9008  
[bsimon@pswplaw.com](mailto:bsimon@pswplaw.com)  
[eklisura@pswplaw.com](mailto:eklisura@pswplaw.com)

100706608\_2.DOC